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2D SESSION

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To provide for a domestic defense fund to improve the Nation's homeland defense, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2004

Mrs. CLINTON (for herself, Ms. MIKULSKI, Mrs. BOXER, Ms. STABENOW, Mr. SCHUMER, Mr. SARBANES, Mr. LAUTENBERG, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide for a domestic defense fund to improve the Nation's homeland defense, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Domestic Defense Fund Act of 2004”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

Sec. 4. Grants to States, units of general local government, and Indian tribes;
authorizations.

Sec. 5. Statement of activities and review.

Sec. 6. Activities eligible for assistance.

- Sec. 7. Allocation and distribution of funds.
- Sec. 8. State and regional planning and communication systems.
- Sec. 9. High-threat, high-density urban areas.
- Sec. 10. Flexible emergency assistance fund.
- Sec. 11. Federal preparedness, equipment, and training standards.
- Sec. 12. Nondiscrimination in programs and activities.
- Sec. 13. Remedies for noncompliance with requirements.
- Sec. 14. Reporting requirements.
- Sec. 15. Consultation by Attorney General.
- Sec. 16. Interstate agreements or compacts; purposes.
- Sec. 17. Matching requirements; suspension of requirements for economically distressed areas.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Since the September 11, 2001, terrorist at-
 4 tacks on our country, communities all across Amer-
 5 ica have been on the front lines in the war against
 6 terrorism on United States soil.

7 (2) Since September 11, 2001, communities
 8 have been forced to bear a significant portion of the
 9 burden that goes along with the war against ter-
 10 rorism, a burden that local governments should not
 11 have to bear alone.

12 (3) Our homeland defense will only be as strong
 13 as the weakest link at the State and local level. By
 14 providing our communities with the resources and
 15 tools they need to bolster emergency response efforts
 16 and provide for other emergency response initiatives,
 17 we will have a better-prepared home front and a
 18 stronger America.

1 **SEC. 3. DEFINITIONS.**

2 (a) DEFINITIONS.—As used in this Act, the following
3 definitions shall apply:

4 (1) CITY.—The term “city” means—

5 (A) any unit of general local government
6 that is classified as a municipality by the
7 United States Bureau of the Census; or

8 (B) any other unit of general local govern-
9 ment that is a town or township and which, in
10 the determination of the Secretary—

11 (i) possesses powers and performs
12 functions comparable to those associated
13 with municipalities;

14 (ii) is closely settled; and

15 (iii) does not contain within its bound-
16 aries any incorporated place, as defined by
17 the United States Bureau of the Census,
18 that has not entered into cooperation
19 agreements with such town or township to
20 undertake or to assist in the performance
21 of homeland security objectives.

22 (2) FEDERAL GRANT-IN-AID PROGRAM.—The
23 term “Federal grant-in-aid program” means a pro-
24 gram of Federal financial assistance other than
25 loans and other than the assistance provided by this
26 Act.

1 (3) INDIAN TRIBE.—The term “Indian tribe”
 2 means any Indian tribe, band, group, and nation, in-
 3 cluding Alaska Indians, Aleuts, and Eskimos, and
 4 any Alaskan Native Village, of the United States,
 5 which is considered an eligible recipient under the
 6 Indian Self-Determination and Education Assistance
 7 Act (Public Law 93–638) or was considered an eligi-
 8 ble recipient under chapter 67 of title 31, United
 9 States Code, prior to the repeal of such chapter.

10 (4) METROPOLITAN AREA.—The term “metro-
 11 politan area” means a standard metropolitan statis-
 12 tical area as established by the Office of Manage-
 13 ment and Budget.

14 (5) METROPOLITAN CITY.—

15 (A) IN GENERAL.—The term “metropoli-
 16 tan city” means—

17 (i) a city within a metropolitan area
 18 that is the central city of such area, as de-
 19 fined and used by the Office of Manage-
 20 ment and Budget; or

21 (ii) any other city, within a metropoli-
 22 tan area, which has a population of not
 23 less than 50,000.

24 (B) PERIOD OF CLASSIFICATION.—Any
 25 city that was classified as a metropolitan city

1 for at least 2 years pursuant to subparagraph
2 (A) shall remain classified as a metropolitan
3 city. Any unit of general local government that
4 becomes eligible to be classified as a metropoli-
5 tan city, and was not classified as a metropoli-
6 tan city in the immediately preceding fiscal
7 year, may, upon submission of written notifica-
8 tion to the Secretary, defer its classification as
9 a metropolitan city for all purposes under this
10 Act, if it elects to have its population included
11 in an urban county under subsection (d).

12 (C) ELECTION BY A CITY.—Notwith-
13 standing subparagraph (B), a city may elect not
14 to retain its classification as a metropolitan
15 city. Any unit of general local government that
16 was classified as a metropolitan city in any
17 year, may, upon submission of written notifica-
18 tion to the Secretary, relinquish such classifica-
19 tion for all purposes under this Act if it elects
20 to have its population included with the popu-
21 lation of a county for purposes of qualifying for
22 assistance (for such following fiscal year) under
23 section 5(e) as an urban county.

24 (6) NONQUALIFYING COMMUNITY.—The term
25 “nonqualifying community” means an area that is

1 not a metropolitan city or part of an urban county
2 and does not include Indian tribes.

3 (7) POPULATION.—The term “population”
4 means total resident population based on data com-
5 piled by the United States Bureau of the Census
6 and referable to the same point or period of time.

7 (8) SECRETARY.—The term “Secretary” means
8 the Secretary of the Department of Homeland Secu-
9 rity.

10 (9) STATE.—The term “State” means any
11 State of the United States, or any instrumentality
12 thereof approved by the Governor; and the Common-
13 wealth of Puerto Rico, the United States Virgin Is-
14 lands, American Samoa, Guam, and the Northern
15 Mariana Islands.

16 (10) UNIT OF GENERAL LOCAL GOVERN-
17 MENT.—The term “unit of general local govern-
18 ment” means any city, county, town, township, par-
19 ish, village, or other general purpose political sub-
20 division of a State; a combination of such political
21 subdivisions is recognized by the Secretary; and the
22 District of Columbia.

23 (11) URBAN COUNTY.—The term “urban coun-
24 ty” means any county within a metropolitan area.

25 (b) BASIS AND MODIFICATION OF DEFINITIONS.—

1 (1) BASIS.—Where appropriate, the definitions
2 listed in subsection (a) shall be based, with respect
3 to any fiscal year, on the most recent data compiled
4 by the United States Bureau of the Census and the
5 latest published reports of the Office of Management
6 and Budget available 90 days before the beginning
7 of such fiscal year.

8 (2) MODIFICATION.—The Secretary may by
9 regulation change or otherwise modify the meaning
10 of the terms defined in subsection (a) in order to re-
11 flect any technical change or modification thereof
12 made subsequent to such date by the United States
13 Bureau of the Census or the Office of Management
14 and Budget.

15 (c) DESIGNATION OF PUBLIC AGENCIES.—The chief
16 executive officer of a State or a unit of general local gov-
17 ernment may designate 1 or more public agencies, includ-
18 ing existing local public agencies, to undertake activities
19 assisted under this Act.

20 (d) INCLUSION OF LOCAL GOVERNMENTS IN URBAN
21 COUNTY POPULATION.—With respect to program years
22 beginning with the program year for which grants are
23 made available from amounts appropriated for fiscal year
24 2004 under section 4, the population of any unit of gen-
25 eral local government which is included in that of an urban

1 county shall be included in the population of such urban
 2 county for 3 program years beginning with the program
 3 year in which its population was first so included and shall
 4 not otherwise be eligible for a grant as a separate entity,
 5 unless the urban county does not receive a grant for any
 6 year during such 3-year period.

7 (e) EXCLUSION OF LOCAL GOVERNMENTS FROM
 8 URBAN COUNTY POPULATION.—

9 (1) NOTIFICATION BY URBAN COUNTY.—Any
 10 county seeking qualification as an urban county, in-
 11 cluding any urban county seeking to continue such
 12 qualification, shall notify each unit of general local
 13 government, located within its geographical bound-
 14 aries and eligible to elect to have its population ex-
 15 cluded from that of the urban county, of its oppor-
 16 tunity to make such an election. Such notification
 17 shall, at a time and in a manner prescribed by the
 18 Secretary, be provided so as to provide a reasonable
 19 period for response prior to the period for which
 20 such qualification is sought.

21 (2) FAILURE OF LOCAL GOVERNMENT TO
 22 ELECT TO BE EXCLUDED.—The population of any
 23 unit of general local government which is provided
 24 such notification and which does not inform, at a
 25 time and in a manner prescribed by the Secretary,

1 the county of its election to exclude its population
 2 from that of the county shall, if the county qualifies
 3 as an urban county, be included in the population of
 4 such urban county as provided under subsection (d).

5 **SEC. 4. GRANTS TO STATES, UNITS OF GENERAL LOCAL**
 6 **GOVERNMENT AND INDIAN TRIBES; AUTHOR-**
 7 **IZATIONS.**

8 (a) AUTHORIZATION.—The Secretary may award
 9 grants to States, units of general local government, and
 10 Indian tribes to carry out activities in accordance with this
 11 Act.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) IN GENERAL.—There are authorized to be
 14 appropriated to carry out section 7—

15 (A) \$4,000,000,000 for each of the fiscal
 16 years 2005 through 2008; and

17 (B) such sums as may be necessary for fis-
 18 cal year 2009 and each fiscal year thereafter.

19 (2) STATE, REGIONAL, AND LOCAL PLANNING,
 20 TRAINING, AND COMMUNICATION SYSTEMS.—There
 21 are authorized to be appropriated to carry out sec-
 22 tion 8—

23 (A) \$1,000,000,000 for each of the fiscal
 24 years 2005 through 2008; and

1 (B) such sums as may be necessary for fis-
 2 cal year 2009 and each fiscal year thereafter.

3 (3) HIGH-THREAT, HIGH-DENSITY URBAN
 4 AREAS.—There are authorized to be appropriated to
 5 carry out section 9—

6 (A) \$1,500,000,000 for each of the fiscal
 7 years 2005 through 2008; and

8 (B) such sums as may be necessary for fis-
 9 cal year 2009 and each fiscal year thereafter.

10 (4) HOMELAND SECURITY FLEXIBLE EMER-
 11 GENCY ASSISTANCE.—There are authorized to be ap-
 12 propriated to carry out section 10—

13 (A) \$500,000,000 for each of the fiscal
 14 years 2005 through 2008; and

15 (B) such sums as may be necessary for fis-
 16 cal year 2009 and each fiscal year thereafter.

17 (c) SUPPLEMENT NOT SUPPLANT.—Funds appro-
 18 priated pursuant to the authority of this section shall be
 19 used to supplement and not supplant full Federal funding
 20 for other first responder programs, including—

21 (1) the Community Oriented Policing Services
 22 Program, as authorized under part Q of title I of
 23 the Omnibus Crime Control and Safe Streets Act of
 24 1968 (42 U.S.C. 3796dd et seq.);

1 (2) the Local Law Enforcement Block Grant
2 Program, as authorized under the Violent Crime
3 Control and Law Enforcement Act of 1994 (Public
4 Law 103–322) and described in H.R. 728, as passed
5 by the House of Representatives on February 14,
6 1995;

7 (3) the Edward Byrne Memorial State and
8 Local Law Enforcement Assistance Programs, as
9 authorized under part E of title I of the Omnibus
10 Crime Control and Safe Streets Act of 1968 (42
11 U.S.C. 3750 et seq.); and

12 (4) the Assistance to Firefighters Grant Pro-
13 gram, as authorized under section 33 of the Federal
14 Fire Prevention and Control Act of 1974 (15 U.S.C.
15 2229).

16 **SEC. 5. STATEMENT OF ACTIVITIES AND REVIEW.**

17 (a) APPLICATION.—

18 (1) IN GENERAL.—A State, metropolitan city,
19 urban county, or unit of general local government
20 desiring a grant under subsection (b) or (i) of sec-
21 tion 7 shall submit an application to the Secretary
22 that contains—

23 (A) a statement of homeland security ob-
24 jectives and projected use of grant funds; and

(B) the certifications required under paragraph (2) and, if appropriate, subsection (b).

(2) GRANTEE STATEMENT.—

(A) CONTENTS.—

(i) LOCAL GOVERNMENT.—In the case of metropolitan cities or urban counties receiving grants under section 7(b) and units of general local government receiving grants under section 7(i)(3), the statement of projected use of funds shall consist of proposed homeland security activities.

(ii) STATES.—In the case of States receiving grants under section 7, the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

(B) CONSULTATION.—In preparing the statement required under this subsection, the grantee shall consult with appropriate law enforcement agencies and emergency response authorities.

(C) FINAL STATEMENT.—A copy of the final statement and the certifications required under paragraph (3) and, where appropriate,

subsection (b), shall be furnished to the Secretary and the Attorney General.

(D) MODIFICATIONS.—Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required under this paragraph for the preparation and submission of such statement.

(3) CERTIFICATION OF ENUMERATED CRITERIA BY GRANTEE TO SECRETARY.—A grant under section 7 shall not be awarded unless the grantee certifies to the satisfaction of the Secretary that the grantee—

(A) has developed a homeland security plan that identifies both short- and long-term homeland security needs that have been developed in accordance with the primary objective and requirements of this Act; and

(B) will comply with the other provisions of this Act and with other applicable laws.

(b) SUBMISSION OF ANNUAL PERFORMANCE REPORTS, AUDITS, AND ADJUSTMENTS.—

(1) IN GENERAL.—Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report con-

cerning the use of funds made available under section 7, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a)(2).

(2) UNIFORM REPORTING REQUIREMENTS.—

(A) RECOMMENDATIONS BY NATIONAL ASSOCIATIONS.—The Secretary shall encourage and assist national associations of grantees eligible under section 7, national associations of States, and national associations of units of general local government in nonqualifying areas to develop and recommend to the Secretary, not later than 1 year after the date of enactment of this Act, uniform recordkeeping, performance reporting, evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively.

(B) ESTABLISHMENT OF UNIFORM REPORTING REQUIREMENTS.—Based on the Secretary's approval of the recommendations submitted pursuant to subparagraph (A), the Secretary shall establish uniform reporting requirements for grantees, States, and units of general local government.

1 (3) REVIEWS AND AUDITS.—Not less than an-
2 nually, the Secretary shall make such reviews and
3 audits as may be necessary or appropriate to deter-
4 mine—

5 (A) in the case of grants awarded under
6 section 7(b), whether the grantee—

7 (i) has carried out its activities;

8 (ii) where applicable, has carried out
9 its activities and its certifications in ac-
10 cordance with the requirements and the
11 primary objectives of this Act and with
12 other applicable laws; and

13 (iii) has a continuing capacity to carry
14 out those activities in a timely manner;
15 and

16 (B) in the case of grants to States made
17 under section 7(i), whether the State—

18 (i) has distributed funds to units of
19 general local government in a timely man-
20 ner and in conformance to the method of
21 distribution described in its statement;

22 (ii) has carried out its certifications in
23 compliance with the requirements of this
24 Act and other applicable laws; and

1 (iii) has made such reviews and audits
2 of the units of general local government as
3 may be necessary or appropriate to deter-
4 mine whether they have satisfied the appli-
5 cable performance criteria described in
6 subparagraph (A).

7 (4) ADJUSTMENTS.—The Secretary may make
8 appropriate adjustments in the amount of the an-
9 nual grants in accordance with the Secretary’s find-
10 ings under this subsection. With respect to assist-
11 ance made available to units of general local govern-
12 ment under section 7(i)(3), the Secretary may ad-
13 just, reduce, or withdraw such assistance, or take
14 other action as appropriate in accordance with the
15 Secretary’s reviews and audits under this subsection,
16 except that funds already expended on eligible activi-
17 ties under this Act shall not be recaptured or de-
18 ducted from future assistance to such units of gen-
19 eral local government.

20 (c) AUDITS.—Insofar as they relate to funds provided
21 under this Act, the financial transactions of recipients of
22 such funds may be audited by the General Accounting Of-
23 fice under such rules and regulations as may be prescribed
24 by the Comptroller General of the United States. The rep-
25 resentatives of the General Accounting Office shall have

1 access to all books, accounts, records, reports, files, and
 2 other papers, things, or property belonging to or in use
 3 by such recipients pertaining to such financial trans-
 4 actions and necessary to facilitate the audit.

5 (d) METROPOLITAN CITY AS PART OF URBAN COUN-
 6 TY.—In any case in which a metropolitan city is located,
 7 in whole or in part, within an urban county, the Secretary
 8 may, upon the joint request of such city and county, ap-
 9 prove the inclusion of the metropolitan city as part of the
 10 urban county for purposes of submitting a statement
 11 under subsection (a) and carrying out activities under this
 12 Act.

13 **SEC. 6. ACTIVITIES ELIGIBLE FOR ASSISTANCE.**

14 Activities assisted under this Act may include—

15 (1) funding additional law enforcement, fire,
 16 and emergency resources, including covering over-
 17 time expenses;

18 (2) purchasing and refurbishing personal pro-
 19 tective equipment for fire, police, and emergency
 20 personnel and acquire state-of-the-art technology to
 21 improve communication and streamline efforts;

22 (3) improving cyber and infrastructure security
 23 by improving—

24 (A) security for water treatment plants,
 25 distribution systems, other water infrastructure,

1 nuclear power plants, electrical grids, and other
2 energy infrastructure;

3 (B) security for tunnels, bridges, locks, ca-
4 nals, railway systems, airports, land and water
5 ports, and other transportation infrastructure;

6 (C) security for oil and gas pipelines and
7 storage facilities;

8 (D) security for chemical plants and trans-
9 portation of hazardous substances;

10 (E) security for agriculture infrastructure;
11 and

12 (F) security for national icons and Federal
13 facilities that may be terrorist targets;

14 (4) assisting local emergency planning commit-
15 tees so that local public agencies can design, review,
16 and improve disaster response systems;

17 (5) assisting communities in coordinating their
18 efforts and sharing information with all relevant
19 agencies involved in responding to terrorist attacks;

20 (6) establishing timely notification systems that
21 enable communities to communicate with each other
22 when a threat emerges;

23 (7) improving communication systems to pro-
24 vide information to the public in a timely manner

1 about the facts of any threat and the precautions
 2 the public should take; and

3 (8) devising a homeland security plan, including
 4 determining long-term goals and short-term objec-
 5 tives, evaluating the progress of the plan, and car-
 6 rying out the management, coordination, and moni-
 7 toring of activities necessary for effective planning
 8 implementation.

9 **SEC. 7. ALLOCATION AND DISTRIBUTION OF FUNDS.**

10 (a) SET-ASIDE FOR INDIAN TRIBES.—

11 (1) IN GENERAL.—The Secretary shall reserve
 12 1 percent of the amount appropriated for each fiscal
 13 year for grants pursuant to section 4(b)(1) (exclud-
 14 ing the amounts for activities described in section 6)
 15 for grants to Indian tribes.

16 (2) SELECTION OF INDIAN TRIBES.—

17 (A) IN GENERAL.—The Secretary shall
 18 distribute amounts under this paragraph to In-
 19 dian tribes on the basis of a competition con-
 20 ducted pursuant to specific criteria for the se-
 21 lection of Indian tribes to receive such amounts.

22 (B) RULEMAKING.—The Secretary, after
 23 notice and public comment, shall promulgate
 24 regulations, which establish the criteria de-
 25 scribed in subparagraph (A).

1 (b) ALLOCATION TO METROPOLITAN CITIES AND
 2 URBAN COUNTIES.—

3 (1) ALLOCATION PERCENTAGE.—Of the amount
 4 remaining after allocations have been made to In-
 5 dian tribes under subsection (a), the Secretary shall,
 6 not later than 60 days after the date on which such
 7 funds are appropriated, allocate and directly transfer
 8 70 percent to metropolitan cities and urban counties.

9 (2) ENTITLEMENT.—Except as otherwise spe-
 10 cifically authorized, each metropolitan city and
 11 urban county shall be entitled to an annual grant,
 12 to the extent authorized beyond fiscal year 2008,
 13 from such allocation in an amount not to exceed its
 14 basic amount computed pursuant to subsections (c)
 15 and (d).

16 (c) COMPUTATION OF AMOUNT ALLOCATED TO MET-
 17 ROPOLITAN CITIES.—

18 (1) VULNERABILITY AND THREAT FACTORS.—
 19 The Secretary shall calculate the amount to be allo-
 20 cated to each metropolitan city, which shall bear the
 21 same ratio to the allocation for all metropolitan cit-
 22 ies as the weighted average of—

23 (A) the population (including tourist, mili-
 24 tary, and commuting populations) of the metro-

1 politan city divided by the population of all met-
2 ropolitan cities;

3 (B) the population density of the metro-
4 politan city;

5 (C) the proximity of the metropolitan city
6 to international borders;

7 (D) the vulnerability of the metropolitan
8 city as it pertains to chemical security;

9 (E) the vulnerability of the metropolitan
10 city as it pertains to nuclear security;

11 (F) the vulnerability of the metropolitan
12 city as it pertains to land and water port secu-
13 rity;

14 (G) the vulnerability of the metropolitan
15 city as it pertains to the security of energy in-
16 frastructure;

17 (H) the vulnerability of the metropolitan
18 city as it pertains to the security of inland wa-
19 terway infrastructure;

20 (I) the vulnerability of the metropolitan
21 city as it pertains to the security of freight and
22 passenger rail transportation infrastructure;

23 (J) the vulnerability of the metropolitan
24 city as it pertains to the security of aviation in-
25 frastructure;

(K) the vulnerability of the metropolitan city as it pertains to the security of agriculture infrastructure;

(L) the proximity of the metropolitan city to the nearest national icons and Federal facilities that may be a terrorist target, as determined by the Department of Homeland Security, and the proximity of all metropolitan cities to the nearest national icons and Federal buildings that may be a terrorist target, as determined by the Department of Homeland Security; and

(M) the threat to the metropolitan city based upon intelligence information from the Department of Homeland Security;

(2) CLARIFICATION OF COMPUTATION RATIOS.—

(A) RELATIVE WEIGHT OF FACTORS.—In determining the weighted average of the ratios under paragraph (1)—

(i) the factor involving population shall constitute 38 percent;

(ii) the factor involving population density shall constitute 12 percent; and

1 (iii) the remaining factors shall be
2 equally weighted.

3 (B) POPULATION DENSITY.—The metro-
4 politan cities shall be ranked according to the
5 density of their populations in calculating the
6 weighted average of this factor. The population
7 density ratio shall be 1 divided by the total
8 number of metropolitan cities, not to exceed
9 100.

10 (C) PROXIMITY TO INTERNATIONAL BOR-
11 DERS.—If a metropolitan city is located within
12 50 miles of an international border, the ratio
13 under paragraph (1)(C) shall be 1 divided by
14 the total number of metropolitan cities, not to
15 exceed 100, which are located within 50 miles
16 of an international border.

17 (D) VULNERABILITY AS IT PERTAINS TO
18 CHEMICAL SECURITY.—If a metropolitan city is
19 within the vulnerable zone of a worst-case
20 chemical release (as specified in the most recent
21 risk management plans filed with the Environ-
22 mental Protection Agency or another instru-
23 ment development by the Environmental Pro-
24 tection Agency or the Department of Homeland
25 Security that captures the same information for

the same facilities), the ratio under paragraph (1)(D) shall be 1 divided by the total number of metropolitan cities that are within such a zone, not to exceed 100.

(E) VULNERABILITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a metropolitan city is located within 50 miles of an operating nuclear powerplant, as identified by the Nuclear Regulatory Commission, the ratio under paragraph (1)(E) shall be 1 divided by the total number of metropolitan cities, not to exceed 100, which are located within 50 miles of an operating nuclear powerplant.

(F) VULNERABILITY AS IT PERTAINS TO PORT SECURITY.—If a metropolitan city is located within 50 miles of—

(i) one of the 75 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Ports Report by All Land Modes; or

(ii) one of the 25 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration,

United States Foreign Waterborne Transportation Statistics,

the ratio under paragraph (1)(F) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of a United States land or water port, not to exceed 100.

(G) VULNERABILITY AS IT PERTAINS TO ENERGY INFRASTRUCTURE SECURITY.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within 50 miles of, non-nuclear power generating plants, compressors, and other significant components of critical energy infrastructure as identified by the Department of Energy or the Department of Homeland Security, the ratio under paragraph (1)(G) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical energy infrastructure, not to exceed 100.

(H) VULNERABILITY AS IT PERTAINS TO INLAND WATERWAY INFRASTRUCTURE SECURITY.—If a metropolitan city is among the 100 metropolitan cities that are closest to, or within 50 miles of, the most significant locks, canals, and other components of critical inland water-

1 way system infrastructure as identified by the
2 Department of Transportation, the ratio under
3 paragraph (1)(H) shall be 1 divided by the total
4 number of metropolitan cities that are located
5 within 50 miles of critical inland water infra-
6 structure, not to exceed 100.

7 (I) VULNERABILITY AS IT PERTAINS TO
8 RAIL TRANSPORTATION INFRASTRUCTURE SE-
9 CURITY.—If a metropolitan city is among the
10 100 metropolitan cities that are closest to, or
11 within 50 miles of, the largest railroad hubs
12 and other significant components of critical
13 freight and passenger rail infrastructure, as
14 identified by the Department of Transportation,
15 the ratio under paragraph (1)(I) shall be 1 di-
16 vided by the total number of metropolitan cities
17 that are located within 50 miles of critical in-
18 land water infrastructure, not to exceed 100.

19 (J) VULNERABILITY AS IT PERTAINS TO
20 AVIATION INFRASTRUCTURE SECURITY.—If a
21 metropolitan city is among the 100 metropoli-
22 tan cities that are closest to, or within 50 miles
23 of, major passenger or cargo airports that are
24 significant components of the Nation's air
25 transportation infrastructure as identified by

1 the Department of Transportation, the ratio
2 under paragraph (1)(J) shall be 1 divided by
3 the total number of metropolitan cities that are
4 located within 50 miles of critical aviation
5 transportation infrastructure, not to exceed
6 100.

7 (K) VULNERABILITY AS IT PERTAINS TO
8 AGRICULTURE INFRASTRUCTURE SECURITY.—If
9 a metropolitan city is among the 100 metropoli-
10 tan cities that are closest to, or within 50 miles
11 of, major feed yards, food processing facilities,
12 and other significant components of the na-
13 tion’s agriculture infrastructure, as defined and
14 determined by the Department of Agriculture
15 and the Department of Homeland Security, the
16 ratio under paragraph (1)(K) shall be 1 divided
17 by the total number of metropolitan cities that
18 are located within 50 miles of critical agri-
19 culture infrastructure, not to exceed 100.

20 (L) PROXIMITY TO NATIONAL ICONS AND
21 FEDERAL BUILDINGS.—If a metropolitan city is
22 among the 100 metropolitan cities that are clos-
23 est to, or within 50 miles of, national icons and
24 Federal buildings that the Department of
25 Homeland Security determines are most vulner-

able with respect to a terrorist attack, the ratio under paragraph (1)(L) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of such icons or Federal buildings, not to exceed 100.

(M) INTELLIGENCE.—If a metropolitan city is among the 100 metropolitan cities that have been identified by the Department of Homeland Security as being special alert or heightened alert status for the longest periods of time, the ratio under paragraph (1)(M) shall be 1 divided by the total number of metropolitan cities that have been identified by the Department of Homeland Security, not to exceed 100.

(d) COMPUTATION OF AMOUNT ALLOCATED TO URBAN COUNTIES.—

(1) VULNERABILITY AND THREAT FACTORS.—

The Secretary shall determine the amount to be allocated to each urban county, which shall bear the same ratio to the allocation for all urban counties as the weighted average of—

(A) the population (including tourist, military, and commuting populations) of the urban

1 county divided by the population of all urban
2 counties;

3 (B) the population density of the urban
4 county;

5 (C) the proximity of the urban county to
6 international borders;

7 (D) the vulnerability of the urban county
8 as it pertains to chemical security;

9 (E) the vulnerability of the urban county
10 as it pertains to nuclear security;

11 (F) the vulnerability of the urban county
12 as it pertains land and water port security;

13 (G) the vulnerability of the urban county
14 as it pertains to the security of energy infra-
15 structure;

16 (H) the vulnerability of the urban county
17 as it pertains to the security of inland waterway
18 infrastructure;

19 (I) the vulnerability of the urban county as
20 it pertains to the security of freight and pas-
21 senger rail transportation infrastructure;

22 (J) the vulnerability of the urban county
23 as it pertains to the security of aviation infra-
24 structure;

1 (K) the vulnerability of the urban county
 2 as it pertains to the security of agriculture in-
 3 frastructure;

4 (L) the proximity of the urban county to
 5 the nearest national icons and Federal facilities
 6 that may be a terrorist target, as determined by
 7 the Department of Homeland Security, and the
 8 proximity of all urban counties to the nearest
 9 national icons and Federal buildings that may
 10 be a terrorist target, as determined by the De-
 11 partment of Homeland Security; and

12 (M) the threat to the urban county based
 13 upon intelligence information from the Depart-
 14 ment of Homeland Security;

15 (2) CLARIFICATION OF COMPUTATION RA-
 16 TIOS.—

17 (A) RELATIVE WEIGHT OF FACTORS.—In
 18 determining the weighted average of the ratios
 19 under paragraph (1)—

20 (i) the factor involving population
 21 shall constitute 38 percent;

22 (ii) the factor involving population
 23 density shall constitute 12 percent; and

24 (iii) the remaining factors shall be
 25 equally weighted.

1 (B) POPULATION DENSITY.—The popu-
2 lation density ratio shall be 1 divided by the
3 total number of urban counties, not to exceed
4 100. The urban counties shall be ranked ac-
5 cording to the density of their populations in
6 calculating the weighted average of this factor.

7 (C) PROXIMITY TO INTERNATIONAL BOR-
8 DERS.—If an urban county is located within 50
9 miles of an international border, the ratio under
10 paragraph (1)(C) shall be 1 divided by the total
11 number of urban counties, not to exceed 100,
12 which are located within 50 miles of an inter-
13 national border.

14 (D) VULNERABILITY AS IT PERTAINS TO
15 CHEMICAL SECURITY.—If an urban county is
16 within the vulnerable zone of a worst-case
17 chemical release (as specified in the most recent
18 risk management plans filed with the Environ-
19 mental Protection Agency or another instru-
20 ment development by the Environmental Pro-
21 tection Agency or the Department of Homeland
22 Security that captures the same information for
23 the same facilities), the ratio under paragraph
24 (1)(D) shall be 1 divided by the total number

of urban counties that are within such a zone,
not to exceed 100.

(E) VULNERABILITY AS IT PERTAINS TO
NUCLEAR SECURITY.—If an urban county is lo-
cated within 50 miles of an operating nuclear
power plant, as identified by the Nuclear Regu-
latory Commission, the ratio under paragraph
(1)(E) shall be 1 divided by the total number
of urban counties, not to exceed 100, which are
located within 50 miles of an operating nuclear
power plant.

(F) VULNERABILITY AS IT PERTAINS TO
PORT SECURITY.—If an urban county is located
within 50 miles of—

(i) one of the 75 largest United States
ports, as stated by the Department of
Transportation, Bureau of Transportation
Statistics, United States Ports Report by
All Land Modes; or

(ii) one of the 25 largest United
States water ports by metric tons and
value, as stated by the Department of
Transportation, Maritime Administration,
United States Foreign Waterborne Trans-
portation Statistics,

1 the ratio under paragraph (1)(F) shall be 1 di-
2 vided by the total number of urban counties
3 that are located within 50 miles of a United
4 States land or water port, not to exceed 100.

5 (G) VULNERABILITY AS IT PERTAINS TO
6 ENERGY INFRASTRUCTURE SECURITY.—If an
7 urban county is among the 100 urban counties
8 that are closest to, or within 50 miles of, non-
9 nuclear power generating plants, compressors,
10 and other significant components of critical en-
11 ergy infrastructure as identified by the Depart-
12 ment of Energy or the Department of Home-
13 land Security, the ratio under paragraph (1)(G)
14 shall be 1 divided by the total number of urban
15 counties that are located within 50 miles of
16 critical energy infrastructure, not to exceed
17 100.

18 (H) VULNERABILITY AS IT PERTAINS TO
19 INLAND WATERWAY INFRASTRUCTURE SECU-
20 RITY.—If an urban county is among the 100
21 urban counties that are closest to, or within 50
22 miles of, the most significant locks, canals, and
23 other components of critical inland waterway
24 system infrastructure as identified by the De-
25 partment of Transportation, the ratio under

paragraph (1)(H) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(I) VULNERABILITY AS IT PERTAINS TO RAIL TRANSPORTATION INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, the largest railroad hubs and other significant components of critical freight and passenger rail infrastructure, as identified by the Department of Transportation, the ratio under paragraph (1)(I) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(J) VULNERABILITY AS IT PERTAINS TO AVIATION INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, major passenger or cargo airports that are significant components of the Nation's air transportation infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(J) shall be 1 divided by the total number of

1 urban counties that are located within 50 miles
2 of critical aviation transportation infrastruc-
3 ture, not to exceed 100.

4 (K) VULNERABILITY AS IT PERTAINS TO
5 AGRICULTURE INFRASTRUCTURE SECURITY.—If
6 urban county is among the 100 urban counties
7 that are closest to, or within 50 miles of, major
8 feed yards, food processing facilities, and other
9 significant components of the Nation’s agri-
10 culture infrastructure, as defined and deter-
11 mined by the Department of Agriculture and
12 the Department of Homeland Security, the
13 ratio under paragraph (1)(K) shall be 1 divided
14 by the total number of urban counties that are
15 located within 50 miles of critical agriculture
16 infrastructure, not to exceed 100.

17 (L) PROXIMITY TO NATIONAL ICONS AND
18 FEDERAL BUILDINGS.—If an urban county is
19 among the 100 urban counties that are closest
20 to, or within 50 miles of, national icons and
21 Federal buildings that the Department of
22 Homeland Security determines are most vulner-
23 able with respect to a terrorist attack, the ratio
24 under paragraph (1)(L) shall be 1 divided by
25 the total number of urban counties that are lo-

1 cated within 50 miles of such icons or Federal
 2 buildings, not to exceed 100.

3 (M) INTELLIGENCE.—If an urban county
 4 is among the 100 urban counties that have been
 5 identified by the Department of Homeland Se-
 6 curity as being special alert or heightened alert
 7 status for the longest periods of time, the ratio
 8 under paragraph (1)(M) shall be 1 divided by
 9 the total number of urban counties that have
 10 been identified by the Department of Homeland
 11 Security, not to exceed 100.

12 (e) EXCLUSIONS.—

13 (1) IN GENERAL.—In computing amounts or
 14 exclusions under subsection (d) with respect to any
 15 urban county, units of general local government lo-
 16 cated in the county that are not included in the pop-
 17 ulation of the county in determining the eligibility of
 18 the county to receive a grant under this subsection
 19 shall be excluded, except that any independent city
 20 (as defined by the Bureau of the Census) shall be
 21 included if it—

22 (A) is not part of any county;

23 (B) is not eligible for a grant;

24 (C) is contiguous to the urban county;

1 (D) has entered into cooperation agree-
 2 ments with the urban county which provide that
 3 the urban county is to undertake or to assist in
 4 the undertaking of essential community devel-
 5 opment and housing assistance activities with
 6 respect to such independent city; and

7 (E) is not included as a part of any other
 8 unit of general local government for purposes of
 9 this section.

10 (2) INDEPENDENT CITIES.—Any independent
 11 city that is included in any fiscal year for purposes
 12 of computing amounts pursuant to the preceding
 13 sentence shall not be eligible to receive assistance
 14 under subsection (i) for that fiscal year.

15 (f) INCLUSIONS.—

16 (1) LOCAL GOVERNMENT STRADDLING COUNTY
 17 LINE.—In computing amounts under subsection (d)
 18 with respect to any urban county, there shall be in-
 19 cluded all of the area of any unit of local govern-
 20 ment which is part of, but is not located entirely
 21 within the boundaries of, such urban county if—

22 (A) the part of such unit of local govern-
 23 ment that is within the boundaries of such
 24 urban county would otherwise be included in

1 computing the amount for such urban county
2 under this section; and

3 (B) the part of such unit of local govern-
4 ment that is not within the boundaries of such
5 urban county is not included as a part of any
6 other unit of local government for the purpose
7 of this section.

8 (2) USE OF GRANT FUNDS OUTSIDE URBAN
9 COUNTY.—Any amount received under this section
10 by an urban county described under paragraph (1)
11 may be used with respect to the part of such unit
12 of local government that is outside the boundaries of
13 such urban county.

14 (g) POPULATION.—

15 (1) EFFECT OF CONSOLIDATION.—Where data
16 are available, the amount to be allocated to a metro-
17 politan city that has been formed by the consolida-
18 tion of 1 or more metropolitan cities within an
19 urban county shall be equal to the sum of the
20 amounts that would have been allocated to the urban
21 county or cities and the balance of the consolidated
22 government, if such consolidation had not occurred.

23 (2) LIMITATION.—Paragraph (1) shall apply
24 only to a consolidation that—

1 (A) included all metropolitan cities that re-
2 ceived grants under this section for the fiscal
3 year preceding such consolidation and that were
4 located within the urban county;

5 (B) included the entire urban county that
6 received a grant under this section for the fiscal
7 year preceding such consolidation; and

8 (C) took place on or after January 1,
9 2004.

10 (3) GROWTH RATE.—The population growth
11 rate of all metropolitan cities defined in section
12 3(a)(6) shall be based on the population of—

13 (A) metropolitan cities other than consoli-
14 dated governments the grant for which is deter-
15 mined under this paragraph; and

16 (B) cities that were metropolitan cities be-
17 fore their incorporation into consolidated gov-
18 ernments.

19 (4) ENTITLEMENT SHARE.—For purposes of
20 calculating the entitlement share for the balance of
21 the consolidated government under this subsection,
22 the entire balance shall be considered to have been
23 an urban county.

24 (h) REALLOCATION.—

1 (1) IN GENERAL.—Except as provided under
2 paragraph (2), any amounts allocated to a metro-
3 politan city or an urban county under this section
4 that are not received by the city or county for a fis-
5 cal year because of failure to meet the requirements
6 of subsection (a) or (b) of section 5, or that other-
7 wise became available, shall be reallocated in the
8 succeeding fiscal year to the other metropolitan cit-
9 ies and urban counties in the same metropolitan
10 area that certify to the satisfaction of the Secretary
11 that they would be adversely affected by the loss of
12 such amounts from the metropolitan area.

13 (2) RATIO.—The amount of the share of funds
14 reallocated under this subsection for any metropoli-
15 tan city or urban county shall bear the same ratio
16 to the total of such reallocated funds in the metro-
17 politan area as the amount of funds awarded to the
18 city or county for the fiscal year in which the reallo-
19 cated funds become available bears to the total
20 amount of funds awarded to all metropolitan cities
21 and urban counties in the same metropolitan area
22 for that fiscal year.

23 (3) TRANSFER.—Notwithstanding paragraphs
24 (1) and (2), the Secretary may, upon request, trans-
25 fer to any metropolitan city the responsibility for the

1 administration of any amounts received, but not ob-
2 ligated, by the urban county in which such city is lo-
3 cated if—

4 (A) such city was an included unit of gen-
5 eral local government in such county prior to
6 the qualification of such city as a metropolitan
7 city;

8 (B) such amounts were designated and re-
9 ceived by such county for use in such city prior
10 to the qualification of such city as a metropoli-
11 tan city; and

12 (C) such city and county agree to such
13 transfer of responsibility for the administration
14 of such amounts.

15 (i) ALLOCATION TO STATES ON BEHALF OF NON-
16 QUALIFYING COMMUNITIES.—

17 (1) IN GENERAL.—Of the amount appropriated
18 pursuant to section 4 that remains after allocations
19 under subsections (a) and (b), the Secretary shall al-
20 locate 30 percent among the States for use in non-
21 qualifying communities.

22 (2) ALLOCATION RATIO.—

23 (A) POPULATION-BASED.—The allocation
24 for each State shall be based on the population
25 of that State, relative to the populations of all

1 States, excluding the population of qualifying
2 communities.

3 (B) PRO-RATA REDUCTION.—The Sec-
4 retary shall make a pro rata reduction of each
5 amount allocated to the nonqualifying commu-
6 nities in each State under subparagraph (A) so
7 that the nonqualifying communities in each
8 State will receive the same percentage of the
9 total amount available under this subsection as
10 the percentage that such communities would
11 have received if the total amount available had
12 equaled the total amount allocated under sub-
13 paragraph (A).

14 (3) DISTRIBUTION.—

15 (A) STATES.—A State shall distribute
16 amounts it receives under this subsection to
17 units of general local government located in
18 nonqualifying areas of the State in such man-
19 ner and at such time as the Secretary shall pre-
20 scribe, consistent with the statement submitted
21 under section 5(a), and not later than 45 days
22 after the date on which the State receives such
23 amounts from the Federal Government.

1 (B) CERTIFICATION.—Before a State may
2 receive or distribute amounts allocated under
3 this subsection, the State must certify that—

4 (i) with respect to units of general
5 local government in nonqualifying areas,
6 the State—

7 (I) provides, or will provide, tech-
8 nical assistance to units of general
9 local government in connection with
10 homeland security initiatives;

11 (II) will not refuse to distribute
12 such amounts to any unit of general
13 local government on the basis of the
14 particular eligible activity selected by
15 such unit of general local government
16 to meet its homeland security objec-
17 tives, except that this clause may not
18 be considered to prevent a State from
19 establishing priorities in distributing
20 such amounts on the basis of the ac-
21 tivities selected; and

22 (III) has consulted with local
23 elected officials from among units of
24 general local government located in
25 nonqualifying areas of that State in

1 determining the method of distribu-
2 tion of funds required by subpara-
3 graph (A); and

4 (ii) each unit of general local govern-
5 ment to be distributed funds will be re-
6 quired to identify its homeland security ob-
7 jectives, and the activities to be undertaken
8 to meet such objectives.

9 (4) MINIMUM AMOUNT.—

10 (A) IN GENERAL.—Except as provided
11 under subparagraph (B), each State shall be al-
12 located, for each fiscal year authorized under
13 this Act and under this section, the greater
14 of—

15 (i) 0.75 percent of the total amount
16 appropriated in the fiscal year for grants
17 to States under this section; or

18 (ii) the amount the State would other-
19 wise be allocated under the formula set
20 forth in this section.

21 (B) EXCEPTION.—Notwithstanding sub-
22 paragraph (A), the United States Virgin Is-
23 lands, American Samoa, Guam, and the North-
24 ern Mariana Islands shall each be allocated
25 0.25 percent of the total amount appropriated

1 in each fiscal year for grants to States under
2 this section.

3 (5) ADMINISTRATION.—

4 (A) IN GENERAL.—Each State shall be re-
5 sponsible for the administration of all funds re-
6 ceived and distributed under paragraph (1). Ex-
7 cept as provided under subparagraph (B), the
8 State shall pay for all administrative expenses
9 incurred by the State in carrying out its respon-
10 sibilities under this Act.

11 (B) FEDERAL SHARE.—From the amounts
12 received by each State for distribution in non-
13 qualifying areas, the State may deduct an
14 amount to pay—

15 (i) the first \$150,000 of its adminis-
16 trative expenses under this subsection; and

17 (ii) 50 percent of any State adminis-
18 trative expenses under this subsection in
19 excess of \$150,000, which amount shall
20 not exceed 2 percent of the amount re-
21 ceived by the State under paragraph (1).

22 (C) DISTRIBUTION.—Any distribution by
23 the Secretary under paragraph (1) shall be
24 made in accordance with—

25 (i) determinations of the Secretary;

(ii) statements submitted and the other requirements under section 5 (except for subsection (c));

(iii) regulations and procedures prescribed by the Secretary.

(D) REALLOCATION.—

(i) FAILURE TO COMPLY.—Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a) or (b) of section 5 shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

(ii) CLOSEOUT.—Any amounts allocated for use in a State under paragraph (1) that become available as a result of the closeout of a grant made by the Secretary under this section in nonqualifying areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which such amounts become available.

(6) SINGLE UNIT.—Any combination of units of general local governments may not be required to

1 obtain recognition by the Secretary to be treated as
2 a single unit of general local government for pur-
3 poses of this subsection.

4 (7) DEDUCTION.—From the amounts received
5 under paragraph (1) for distribution in nonquali-
6 fying areas, the State may use not more than 1 per-
7 cent to provide technical assistance to local govern-
8 ments.

9 (8) APPLICABILITY.—Any activities conducted
10 with amounts received by a unit of general local gov-
11 ernment under this subsection shall be subject to the
12 applicable provisions of this Act and other Federal
13 law in the same manner and to the same extent as
14 activities conducted with amounts received by a unit
15 of general local government under subsection (a).

16 (j) QUALIFICATIONS AND DETERMINATIONS.—The
17 Secretary may prescribe such qualification or submission
18 dates as the Secretary determines to be necessary to per-
19 mit the computations and determinations required by this
20 section to be made in a timely manner, and all such com-
21 putations and determinations shall be final and conclusive.

22 (k) PRO RATA REDUCTION AND INCREASE.—

23 (1) REDUCTION.—If the total amount available
24 for distribution in any fiscal year to metropolitan
25 cities and urban counties under this section is insuf-

1 ficient to provide the amounts to which metropolitan
 2 cities and urban counties would be entitled under
 3 this section, and funds are not otherwise appro-
 4 priated to meet the deficiency, the Secretary shall
 5 meet the deficiency through a pro rata reduction of
 6 all amounts determined under this section.

7 (2) INCREASE.—If the total amount available
 8 for distribution in any fiscal year to metropolitan
 9 cities and urban counties under this section exceeds
 10 the amounts to which metropolitan cities and urban
 11 counties would be entitled under this section, the
 12 Secretary shall distribute the excess through a pro
 13 rata increase of all amounts determined under this
 14 section.

15 **SEC. 8. STATE AND REGIONAL PLANNING AND COMMU-**
 16 **NICATION SYSTEMS.**

17 (a) ALLOCATIONS.—From the amounts appropriated
 18 pursuant to section 4(b)(2), the Secretary shall allocate
 19 \$1,000,000,000 to States, regional cooperations, and units
 20 of general local government for—

- 21 (1) homeland defense planning within the
- 22 States;
- 23 (2) providing increased security through addi-
- 24 tional first responder personnel;

1 (3) purchasing and refurbishing personal pro-
2 tective equipment for first responder personnel;

3 (4) homeland defense planning within the re-
4 gions;

5 (5) the development and maintenance of State-
6 wide training facilities and homeland security best-
7 practices clearinghouses; and

8 (6) the development and maintenance of com-
9 munications systems that can be used between and
10 among first responders, including law enforcement,
11 fire, and emergency medical personnel.

12 (b) USE OF FUNDS.—Of the amount allocated under
13 subsection (a)—

14 (1) \$500,000,000 shall be used by the States
15 for homeland defense planning and coordination
16 within each State;

17 (2) \$50,000,000 shall be used by regional co-
18 operations and regional, multistate, or intrastate au-
19 thorities for homeland defense planning and coordi-
20 nation within each region;

21 (3) \$50,000,000 shall be used by the States to
22 develop and maintain statewide training facilities
23 and best-practices clearinghouses; and

24 (4) \$400,000,000 shall be used by the States
25 and units of general local government to develop and

1 maintain communications systems that can be used
2 between and among first responders at the State
3 and local level, including law enforcement, fire, and
4 emergency personnel.

5 (c) ALLOCATIONS TO STATES.—

6 (1) IN GENERAL.—Amounts allocated to States
7 under this section shall be allocated among the
8 States based upon the population for each State rel-
9 ative to the populations of all States.

10 (2) MINIMUM AMOUNT PROVISION.—The provi-
11 sion under section 7(i)(4) relating to a minimum
12 amount shall apply to amounts allocated to States
13 under this section.

14 (3) LOCAL COMMUNICATIONS SYSTEMS.—

15 (A) IN GENERAL.—Not less than 50 per-
16 cent of the amounts allocated under subsection
17 (b)(4) shall be used for the development and
18 maintenance of local communications systems.

19 (B) DISTRIBUTION OF FUNDS.—Each
20 State shall distribute amounts reserved for local
21 communications systems in that State under
22 subparagraph (A) to units of general local gov-
23 ernment not later than 45 days after the State
24 receives such amounts from the Federal Gov-
25 ernment.

1 (d) ALLOCATIONS TO REGIONAL COOPERATIONS.—
2 Funds allocated under subsection (b)(2) shall be allocated
3 to regional cooperations and regional, multistate, or intra-
4 state authorities, based upon the population of the areas
5 covered by each regional cooperative.

6 **SEC. 9. HIGH-THREAT, HIGH-DENSITY URBAN AREAS.**

7 (a) ALLOCATIONS.—

8 (1) IN GENERAL.—From the amounts appro-
9 priated pursuant to section 4(b)(3), the Secretary
10 shall allocate \$1,500,000,000 for discretionary
11 grants to high-threat, high-density urban areas, as
12 determined by the Secretary, and for the protection
13 of critical infrastructure.

14 (2) DISTRIBUTION.—Grant funds awarded
15 under this section shall be transferred directly to
16 high-threat, high-density urban areas not later than
17 60 days after the date on which funds are appro-
18 priated pursuant to section 4(b)(3).

19 (b) SELECTION CRITERIA.—In selecting grantees
20 under this section, the Secretary shall consider—

- 21 (1) credible threat;
- 22 (2) vulnerability;
- 23 (3) the presence of critical infrastructure, in-
24 cluding infrastructure described in section 7;
- 25 (4) population;

1 (5) population density; and

2 (6) identified needs of public agencies.

3 (c) HOMELAND SECURITY PLAN.—Each high-threat,
4 high-density urban area awarded a grant under this sec-
5 tion shall submit a homeland security plan to the State
6 in which it is located and to the Secretary that describes
7 the intended use of grant funds received under this sec-
8 tion.

9 (d) MINIMUM AMOUNT.—Section 1014(c)(3) of the
10 USA PATRIOT ACT (42 U.S.C. 3711(c)(3)) and section
11 7(i)(4) of this Act shall not apply to funds awarded under
12 this section.

13 **SEC. 10. FLEXIBLE EMERGENCY ASSISTANCE FUND.**

14 (a) IN GENERAL.—From the amounts appropriated
15 pursuant to section 4(b)(4), \$500,000,000 shall be used
16 to create a flexible emergency assistance fund, from which
17 the Secretary shall provide funds directly to State and
18 units of local government that incur extraordinary home-
19 land security costs.

20 (b) RELEASE OF FUNDS.—The Secretary may release
21 emergency assistance funds to a State or local community
22 as the Secretary determines to be appropriate, including—

23 (1) when the Secretary determines that a State
24 or local community may be the specific target of a
25 terrorist threat;

1 (2) when a local community is the venue of a
 2 high profile trial related to homeland security or ter-
 3 rorism;

4 (3) when the State or local community has been
 5 asked to assist in a Federal investigation concerning
 6 homeland security or terrorism; and

7 (4) when an agency of the Federal Government
 8 has requested the State or local community to assist
 9 that agency in performing homeland security func-
 10 tions.

11 (c) REIMBURSEMENTS.—The Secretary may disburse
 12 flexible emergency assistance funds to reimburse States
 13 and units of general local government for increased per-
 14 sonnel costs associated with the activation of first respond-
 15 ers who serve in the Reserves or National Guard.

16 (d) MINIMUM AMOUNT.—Section 1014(c)(3) of the
 17 USA PATRIOT ACT (42 U.S.C. 3711(c)(3)) and section
 18 7(i)(4) of this Act shall not apply to funds awarded under
 19 this section.

20 **SEC. 11. FEDERAL PREPAREDNESS, EQUIPMENT, AND**
 21 **TRAINING STANDARDS.**

22 (a) IN GENERAL.—The Department of Homeland Se-
 23 curity shall develop national homeland security prepared-
 24 ness, first responder training, and equipment standards,

1 and best practices to facilitate the most effective and effi-
2 cient use of funds authorized under this Act.

3 (b) CONSULTATION.—Not later than 1 year after the
4 date of enactment of this Act, the Secretary shall develop
5 the standards described in subsection (a) in consultation
6 with first responders, States, local communities, non-
7 governmental homeland security experts, and such other
8 persons and organizations as the Secretary determines to
9 be appropriate.

10 (c) REPORTS.—The Secretary shall submit a report
11 to Congress on the progress made in developing the stand-
12 ards and best practices described in subsection (a)—

13 (1) not later than 90 days after the date of en-
14 actment of this Act; and

15 (2) not later than 180 days after the date of
16 enactment of this Act.

17 **SEC. 12. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.**
18 **TIES.**

19 (a) IN GENERAL.—No person in the United States
20 shall on the ground of race, color, national origin, religion,
21 or sex be excluded from participation in, be denied the
22 benefits of, or be subjected to discrimination under any
23 program or activity funded in whole or in part with funds
24 made available under this Act.

1 (b) AGE OR HANDICAP.—Any prohibition against dis-
 2 crimination on the basis of age under the Age Discrimina-
 3 tion Act of 1975 (42 U.S.C. 6101 et seq.) or with respect
 4 to an otherwise qualified handicapped individual as pro-
 5 vided in section 504 of the Rehabilitation Act of 1973 (29
 6 U.S.C. 794) shall also apply to any such program or activ-
 7 ity.

8 **SEC. 13. REMEDIES FOR NONCOMPLIANCE WITH REQUIRE-**
 9 **MENTS.**

10 If the Secretary finds, after reasonable notice and op-
 11 portunity for a hearing, that a recipient of assistance
 12 under this Act has failed to comply substantially with any
 13 provision of this Act, the Secretary shall—

14 (1) terminate payments to the recipient under
 15 this Act;

16 (2) reduce payments to the recipient under this
 17 Act by an amount equal to the amount of such pay-
 18 ments which were not expended in accordance with
 19 this Act; or

20 (3) limit the availability of payments under this
 21 Act to programs, projects, or activities not affected
 22 by such failure to comply.

23 **SEC. 14. REPORTING REQUIREMENTS.**

24 (a) IN GENERAL.—Not later than 180 days after the
 25 end of each fiscal year in which assistance is awarded

1 under this Act, the Secretary shall submit to Congress a
2 report containing—

3 (1) a description of the progress made in ac-
4 complishing the objectives under this Act;

5 (2) a summary of the use of such funds during
6 the preceding fiscal year; and

7 (3) a description of the activities carried out
8 under section 7.

9 (b) REPORTS TO SECRETARY.—The Secretary may
10 require recipients of assistance under this Act to submit
11 such reports and other information as may be necessary
12 in order for the Secretary to comply with subsection (a).

13 **SEC. 15. CONSULTATION BY ATTORNEY GENERAL.**

14 In carrying out the provisions of this Act including
15 the issuance of regulations, the Secretary shall consult
16 with the Attorney General and other Federal departments
17 and agencies administering Federal grant-in-aid pro-
18 grams.

19 **SEC. 16. INTERSTATE AGREEMENTS OR COMPACTS; PUR-**
20 **POSES.**

21 The consent of Congress is hereby given to any 2 or
22 more States to enter into agreements or compacts, not in
23 conflict with any law of the United States—

24 (1) for cooperative effort and mutual assistance
25 in support of homeland security planning and pro-

1 grams carried out under this Act as they pertain to
 2 interstate areas and to localities within such States;
 3 and

4 (2) to establish such agencies, joint or other-
 5 wise, that the States consider desirable for making
 6 such agreements and compacts effective.

7 **SEC. 17. MATCHING REQUIREMENTS; SUSPENSION OF RE-**
 8 **QUIREMENTS FOR ECONOMICALLY DIS-**
 9 **TRESSED AREAS.**

10 (a) **MATCHING REQUIREMENT.**—Grant recipients
 11 shall contribute, from funds other than those received
 12 under this Act, an amount equal to 10 percent of the total
 13 funds received under this Act, which shall be used in ac-
 14 cordance with the grantee’s statement of homeland secu-
 15 rity objectives.

16 (b) **WAIVER FOR ECONOMIC DISTRESS.**—The Sec-
 17 retary shall waive the matching requirement under sub-
 18 section (a) for grant recipients that the Secretary deter-
 19 mines to be economically distressed.

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